

IN THE

Court of Appeal of the State of California

IN AND FOR THE

Fifth Appellate District

**F041671      In re Sierra C. et al., Minors.**

The judgment (the August 30, 2002, jurisdictional and October 4, 2002, dispositional orders) is affirmed. Harris, Acting P.J.

We concur: Wiseman, J.; Levy, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F042266      Choate et al. v. Miller**

No brief having been filed by appellant after notice duly given under rule 17(a) of the California Rules of Court, IT IS HEREBY ORDERED that the appeal in the above-entitled action is dismissed.

**F041769      In re Ricardo L., Jr. a Minor**

Oral argument having been waived by the parties in their response to the calendar notice and questionnaire, the calendar date heretofore set is vacated and the case is submitted for decision.

**F040054      People v. Vasquez**

Oral argument having been waived in the above-entitled case in accordance with the provisions of a notice mailed to counsel, the calendar date heretofore set is vacated and the case is submitted for decision.

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**F037684      People v. Pearson**

The trial court's true findings on the allegations that appellant suffered convictions in Nevada in 1983 for battery with a deadly weapon and battery with intent to commit robbery under section 667, subdivision (a)(1) for enhancement purposes and under section 667, subdivisions (b)-(i) for purposes of the three strikes law are reversed, and the personal weapon use enhancement the court imposed in connection with count 2 is stricken. The case is remanded to the trial court with directions that the trial court designate which conviction it has dismissed for purposes of the three strikes law, and to conduct further proceedings not inconsistent with this opinion. In all other respects, the judgment of the trial court is affirmed. Gomes, J.

We concur: Vartabedian, Acting P.J.; Buckley, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F040047      People v. Sim**

Oral argument having been waived in the above-entitled case in accordance with the provisions of a notice mailed to counsel, the case is submitted for decision.

**F039753      People v. Bria**

The judgment is affirmed. Dibiaso, Acting P.J.

We concur: Buckley, J.; Cornell, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F039610      People v. Shue**

The judgment is affirmed with modifications. Dibiaso, Acting P.J.

We concur: Wiseman, J.; Cornell, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F039113      People v. Hubbard**

Oral argument having been waived in the above-entitled case in accordance with the provisions of a notice mailed to counsel, the calendar date heretofore set is vacated and the case is submitted for decision.

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**F042848      People v. Superior Court, Stanislaus; The Modesto Bee**

Let a peremptory writ of mandate issue directing the trial court to enter an order modifying its order filed on April 10, 2003, in Stanislaus County Superior Court action No. 1045098. The modification to be ordered by the trial court shall vacate ONLY the first two paragraphs in the section identified as “IV” on page 3 of the trial court’s April 10, 2003 order, which two paragraphs direct disclosure of the materials when a complaint or indictment is filed or on July 9, 2003. In all other respects, including but not limited to the Findings set out in it, the trial court’s order denying McClatchy’s “petition to unseal . . . in its entirety” and directing that the Materials be unconditionally sealed is affirmed.

The order filed in this proceeding on April 18, 2003, as modified in this court’s order filed on May 5, 2003, shall remain in effect until this opinion is final in all the courts of this state, the superior court complies with this disposition, or the Supreme Court grants a hearing, whichever shall first occur; thereafter the stay is dissolved.

Insofar as petitioner requests relief in addition to that granted above, the request is denied.

Nothing in this order forecloses any interested person or entity from re-applying to the superior court for a release order at an appropriate time in the future and upon a showing of a change in circumstances.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F039462      People v. Guerra**

The judgment of conviction is affirmed. The sentence is vacated and the cause is remanded to the trial court for a new sentencing hearing. Levy, J.

We concur: Dibiaso, Acting P.J.; Wiseman, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F041077      People v. Sotello**

Appellant’s petition for rehearing filed herein is denied.

IN THE  
Court of Appeal of the State of California

IN AND FOR THE  
Fifth Appellate District

**F040725      Byefield v. Memorial Health Systems, Inc.**  
The judgment (order) appealed from is reversed.  
Dibiaso, Acting P.J.  
We concur: Buckley, J.; Cornell, J.  
[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]